

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FIL.
MAY 05 2005
[Signature]
CLERK

UNITED STATES OF AMERICA,

CR. 05-40026

Plaintiff,

vs.

CHERYL RENA EWING,
a/k/a Renee, a/k/a Kibbles 'N' Bits,

OPINION
AND ORDER

Defendant.

Pending is Defendant's Ex Parte Motion (Doc. 9) which requests the court order the United States Marshal's Service to provide defendant with financial assistance for her travel from the District of South Dakota back to her home in the Central District of California. A release/detention hearing was held on Wednesday, May 4, 2005. Defendant was released but is required to reside at a community corrections facility in South Dakota and is not authorized to return to California. Therefore, the motion is moot.

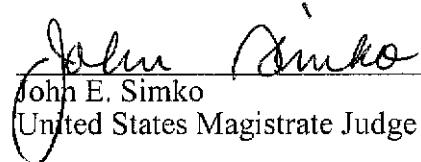
Further, 18 U.S.C.A. § 4285 provides, in part "... [if] the defendant is financially unable to provide the necessary transportation to appear before the required court on his own, [the judge may] direct the United States marshal to arrange for that person's means of noncustodial transportation or furnish the fare for such transportation *to the place where his appearance is required . . .*" (emphasis added). There is no statutory authorization for the court to direct the marshal to pay for defendant's return trip home following a court appearance. U.S. v. James, 762 F.Supp.1. (D.D.C. 1991); U.S. v. Gonzales, 684 F.Supp. 838 (D.Vt. 1988).

Accordingly, it is hereby

ORDERED, that Defendant Motion for Payment of Travel Expenses (Doc.9) is denied.

Dated this 5 day of May, 2005.

BY THE COURT:


John E. Simko
United States Magistrate Judge

ATTEST:

JOSEPH HAAS, CLERK

By Shelly Margulies
Deputy